IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY NINTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION NO.21581 of 2004

Between:

M/s. Hema Pen Company, Rep. by its Managing Partner,
Mr. Gulshan Arora, S/o. Late Sri Brij MOhan Arora, R/o. Hyderabad.

..... PETITIONER

AND

1 The Employees Provident Fund Organisation, Rep. by its Regional

Provident Fund Commissioner, Barkatpura, Hyderabad.
2 The Employees Provident Fund Organisation, Rep. by its Assistant

Provident Fund Commissioner,
Sub-Accounts Office, H.No. 21-48/18, Plot No. 16-17, Balajinagar,

Kukatpally, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to call for the records from the 2nd respondent in Proc.No.AP/22006, dt.18-8-2003 and Proc.No.AP/22006/SAO/KKP/ENF.Z.XI/2004/4323 dated 12-3-2004 and issue an appropriate Writ, Order or direction particularly one in the nature of Writ of Mandamus, declaring the action of the 2nd respondent in refusing to review the orders, as illegal, unjust, contrary to law, and in violation of principles of natural justice.

Counsel for the Petitioner: MR.A.K.JAYAPRAKASH RAO

Counsel for the Respondents: MR.R.N.REDDY

The Court at the stage of admission made the following :

ORDER:

Challenging the proceedings No.AP/22006, dated 18.08.2003 and No.AP/22006/SAO/KKP/ENF.Z.XI/2004/4323, dated 12.03.2004 of the 2nd respondent-Assistant Provident Fund Commissioner rejecting the review application filed by the petitioner-Company, the present writ petition is filed.

The petitioner-Company is stated to be established in the year 1991 and engaged in the business of manufacturing the pens and it came under the provisions of the Employees Provident Fund Act. It is stated that due to slackness in the ink pen industry, petitioner-Company was closed with effect from 31.12.2003 and settled the accounts of the employees who were on the rolls numbering to 4. That the 2nd respondent issued a notice to the petitioner-Company calling upon it to pay the contributions for the period from January, 2002 to November, 2002 and petitioner-Company has paid Rs.10,517/- on 19.02.2004. The grievance of the petitioner-Company is that the 2nd respondent passed an ex parte order on 18.08.2003 calling upon it to pay a sum of Rs.49,605/-. Then the petitioner-Company filed a review application before the 2nd respondent and the 2nd respondent vide his letter dated 18.12.2003 called upon the petitioner-Company to appear before him on 31.12.2003 and accordingly its representative attended the enquiry along with the records, but the 2nd respondent without considering the records produced by the petitioner-Company passed the impugned order dated 12.03.2004 rejecting the review application. Hence, the writ petition.

Heard the learned counsel for the petitioner and learned counsel for the respondents. Both the counsel agreed for disposal of the writ petition at the stage of admission.

Learned counsel for the petitioner submits that there is enough record to defend the case of the petitioner-Company, but the rejection of the same by the 2nd respondent on the plea that the inquiry under Section 7-A of the Act was adjourned on eight times and employer absented himself and not produced the records, is not a ground to reject the review application. Learned counsel for the petitioner also submits that the petitioner-Company has already paid Rs.10,000/- and ready to pay another Rs.10,000/- in pursuance of the demand notice dated 18.08.2003 if the 2nd respondent is directed to consider the review application filed by the petitioner-Company.

Learned Standing Counsel for respondent expressed no objection for the above proposal of the learned counsel for petitioner.

Having regard to the facts and circumstances of the case, the petitioner-Company is directed to pay Rs.10,000/- to the 2nd respondent within 10 days from the date of receipt of a copy of this order. On such payment, the 2nd respondent is directed to consider the review application, fix a date for hearing and after considering the material if any, filed by the petitioner in support of its claim, pass appropriate orders in accordance with law. It is made clear that , if the petitioner fails to substantiate its case on the given date, the respondent authorities are at liberty to execute the impugned order.

With the above observation, the writ petition is disposed of at the stage of admission. No costs.

(N.V. RAMANA, J)

Date: 29.11.2004

Nsr/Tvk

To

1 The Regional Provident Fund Commissioner,

Employees Provident Fund Organisation, Barkatpura, Hyderabad.
2 The Assistant Provident Fund Commissioner,
Employees Provident Fund Organisation, Sub-Accounts Office, H.No.

21-48/18, Plot No. 16-17, Balajinagar,

Kukatpally, Hyderabad.

3 Two CD copies.

THE HON'BLE SRI JUSTICE N.V. RAMANA

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Date: 29-11-2004